FILED
APR 17 1956
HAROLD B. WILLEY, C

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1956

No. 788

STURE V. SIGFRED,
Petitioner,

vs.

PAN AMERICAN WORLD AIRWAYS, INC.,
Respondent.

RESPONDENT'S BRIEF IN OPPOSITION TO WRIT OF CERTIORARI

DAVID W. DYER
DOUGLAS D. BATCHELOR
of: SMATHERS, THOMPSON & DYER
1301 Alfred I. duPont Building
Miami 32, Florida
Attorneys for Respondent

INDEX

	Page
Statement	1
Questions Presented	2
Reasons Why the Writ Should Not Be Granted	2
Conclusion	5

CITATIONS

Bernhardt v. *Polygraphic Co.*, 100 L. Ed. (Adv. 203)	4
Erie Railroad Co. v. *Tompkins*, 304 U.S. 64	3
Guaranty Trust Co. v. *York*, 326 U.S. 99	4
Moore v. *Illinois Cent. R. Co.*, 312 U.S. 630	3
Order of Railway Conductors of America v. *Pitney, et al.*, 326 U.S. 561	3
Slocum v. *Delaware L. & W. R. Co.*, 339 U.S. 239	3
Transcontinental & Western Air, Inc., v. *Koppal*, 345 U.S. 653	3

STATUTES

Railway Labor Act, 49 Stat. 1189, 45 U.S.C., Sec. 184

IN THE

SUPREME COURT

OF THE UNITED STATES

OCTOBER TERM, 1956

No. 788

STURE V. SIGFRED,
Petitioner,

vs.

PAN AMERICAN WORLD AIRWAYS, INC.,
Respondent.

RESPONDENT'S BRIEF IN OPPOSITION TO WRIT OF CERTIORARI

STATEMENT

The Petitioner's complaint was grounded upon two points: First, that the collective bargaining agreement (Exhibit 1) between the Company and the Union, should be interpreted so that the Petitioner would be entitled to receive his "salary" during such period as he may suffer from an occupational sickness or injury. He alleges that "notwithstanding its contractual obligations * * * (under the collective bargaining agreement), the Defendant has

failed and refused to pay his salary at the rate of $1120.00 per month from April 1, 1951, to date, although Plaintiff has demanded payment thereof." (R. 8)

Second, the Complaint attacks the award of the System Board of Adjustment as being arbitrary, capricious, unsupported by and contrary to law. (R. 8) The Plaintiff does not contend that he was wrongfully discharged. (Petitioner's Appendix A 12)

QUESTIONS PRESENTED

No issue of wrongful discharge being involved, the Plaintiff merely seeks an interpretation of an existing collective bargaining agreement which would entitle him to indefinite continuation of his salary during disability. The Petition for Writ of Certiorari, therefore, presents two questions:

1. Do the courts have jurisdiction to interpret existing collective bargaining agreements entered into pursuant to the Railway Labor Act, (45 U.S.C., Sec. 184) or does the System Board of Adjustment, established pursuant to that Act, have exclusive jurisdiction in such matters?

2. If the courts do have jurisdiction, is the Board of Adjustment's interpretation of the collective bargaining agreement "arbitrary, capricious, unsupported by and contrary to law"?

REASONS WHY THE WRIT SHOULD NOT BE GRANTED

1. INTERPRETATION OF A COLLECTIVE BARGAINING AGREEMENT IS A MATTER SOLELY WITHIN THE JURISDICTION OF THE SYSTEM BOARD OF ADJUSTMENT AND NOT OF THE COURTS.

The opinion of the Court of Appeals (Petitioner's Appendix 3A) is in full accord with the law as announced by this Court in *Moore* v. *Illinois Cent. R. Co.*, 312 U.S. 630, 61 S.Ct. 754, 85 L.Ed. 1089; *Slocum* v. *Delaware L. & W. R. Co.*, 339 U.S. 239, 70 S.Ct. 577, 94 L.Ed. 795; and *Transcontinental and Western Air, Inc.* v. *Koppal*, 345 U.S. 653, 73 S.Ct. 906, 97 L.Ed. 1325.

Unlike the Plaintiff in the *Moore* and *Koppal* cases, the Plaintiff here is not suing for damages on the claim that he was wrongfully discharged. In the Courts below he conceded that he was not. His claim is rather one for payment in accordance with the collective bargaining agreement.

Like *Slocum*, the primary issue in this case "concerned interpretation of an existing bargaining agreement. Its settlement would have prospective as well as retrospective importance to both the railroad (airline) and its employees, since the interpretation accepted would govern future relations of those parties." In *Slocum* this Court added:

> "We hold that the jurisdiction of the Board to adjust grievances and disputes of the type here involved is exclusive."

This Court also said, referring to the case of *Order of Railway Conductors of America* v. *Pitney et al.*, 326 U.S. 561, 66 S.Ct. 322, 90 L.Ed. 318:

> "This reasoning equally supports a denial of power in any court – state as well as federal – to invade the jurisdiction conferred on the Adjustment Board by the Railway Labor Act."

The cases relied upon by the Petitioner, *Erie Railroad Co.* v. *Tompkins*, 304 U.S. 64, 82 L.Ed. 1188, 58 S.Ct. 817;

Guaranty Trust Co. v. *York*, 326 U.S. 99, 89 L.Ed. 2079, 65 S.Ct. 1464; and *Bernhardt* v. *Polygraphic Co.*, 100 L.Ed. (Adv. 203) are certainly not applicable to this issue.

The Court of Appeals below was clearly correct in holding that under the *Slocum* decision, the interpretation of this agreement was within the exclusive jurisdiction of the Adjustment Board. Its opinion is not in conflict with that of any other Circuit, nor is it in conflict with any of the applicable decisions of this Court. The Petition should, therefore, be denied.

2. IF THE COURTS DO HAVE JURISDICTION, IS THE BOARD OF ADJUSTMENT'S INTERPRETATION OF THE COLLECTIVE BARGAINING AGREEMENT "ARBITRARY, CAPRICIOUS, UNSUPPORTED BY AND CONTRARY TO LAW"?

If this Court should feel that in spite of the *Slocum* and *Pitney* cases, Courts do have jurisdiction in causes such as this, where the primary issue is the interpretation of a collective bargaining agreement, the Petitioner is then faced with the fact that both the District Court and the Court of Appeals have stated that the interpretation of the agreement made by the Board of Adjustment is the correct interpretation. The Board of Adjustment, composed of two representatives of the Company and two members of the Union, was unanimous in ruling adversely to the Petitioner's contention. (R. 57)

The District Court, after an independent examination of the contract, agreed with the interpretation of the Adjustment Board, saying:

> "So the end result is that the Court, in considering the action solely as one for breach of contract,

holds that the plaintiff is not entitled to a construction of the contract in his favor, and that on the feature of a review of the Board's decision, the Board's action was not arbitrary, but is in accord with the Court's conclusion." (R. 64)

The opinion of the Court of Appeals says:

> "• • • we regard the board's interpretation of the agreement not only entirely reasonable, but we believe it to be the correct interpretation." (Plaintiff's Appendix A 9).

We have no doubt that the Adjustment Board's decision might be reviewed by the court if it was shown that its interpretation of the collective bargaining agreement was so arbitrary that it was tantamount to a denial of due process. This issue was not presented either by the pleadings or proof in this case.

Petitioner has not contended that any of the considerations governing review by certiorari, as set forth in Rule 19 of this Court, are present in connection with the consideration of the interpretation of this agreement by the lower courts.

CONCLUSION

The primary issue in this case being the interpretation of an existing bargaining agreement, the Board of Adjustment and not the courts has exclusive jurisdiction to make such interpretation. In any event however, both of the courts below have stated that the interpretation of the Board of Adjustment is the correct interpretation of the agreement and the Petitioner does not contend that

any of the considerations governing review by certiorari are presented in connection with such interpretation.

For these reasons, we respectfully submit that the Petition for Writ of Certiorari should be denied.

DAVID W. DYER

DOUGLAS D. BATCHELOR

Attorneys for Respondent.

ACKNOWLEDGMENT OF SERVICE

Receipt is acknowledged of three copies of Respondent's brief this ..... day of April, 1956.

.....

Attorney for Petitioner